



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/033,516 | 12/24/2001 | James A. Gravelle | P0120 | 8647 |

7590 03/28/2003
Burkhart & Burkhart
Patent Attorneys
940 Dakota Avenue
Whitefish, MT 59937

EXAMINER

FERGUSON, MICHAEL P

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3679

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,516

Applicant(s)

GRAVELLE, JAMES A.

Examiner

Michael P. Ferguson

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7-9, 14-16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (USPN 3,652,780).

As to claim 1, Wilson discloses a support bracket **10,11** for securing wire fence elements **42** to posts **12** having T-shaped cross-sections with a leg **15** and two cross-arms **13,14**, the bracket having the following:

a first slot **22** adapted and constructed to receive a cross-arm of a fence post;

a second slot **23** adapted and constructed to receive a cross-arm of the fence post; and

a third slot (between bracket arms **18,19**) adapted and constructed to receive a leg of the fence post;

whereby the bracket can be mounted to the post in a first position in which the leg is received in the third slot, and a second position in which the leg extends opposite the third slot (Figure 1).

As to claim 2, Wilson discloses a support bracket **10,11** having the following:

a first tab **26** connected to a first slot **22**; and

a second tab **27** connected to a second slot **23**;

whereby the first and second tabs are adapted and constructed to facilitate opening of the slots for insertion and removal of cross-arms therefrom (Figures 3 and 5).

As to claim 7, Wilson discloses a support bracket **10,11** having a reinforcing rib **21** adjacent to a third slot (Figure 1).

As to claim 8, Wilson discloses a support bracket **10,11** for securing wire fence elements **42** to posts **12** having T-shaped cross-sections with a leg **15** and two cross-arms **13,14**, the bracket having the following:

a first slot **22** adapted and constructed to receive a cross-arm of a fence post;

a second slot **23** adapted and constructed to receive a cross-arm of the fence post, the second slot being generally aligned with the first slot; and

a third slot (between bracket arms **18,19**) adapted and constructed to receive a leg of the fence post, the third slot being generally perpendicular to the first and second slots;

whereby the bracket can be mounted to the post in a first position in which the leg is received in the third slot, and a second position in which the leg extends opposite the third slot (Figure 1).

As to claim 9, Wilson discloses a support bracket **10,11** having the following:

a first tab **26** connected to a first slot **22**; and

a second tab **27** connected to a second slot **23**;

whereby the first and second tabs are adapted and constructed to facilitate opening of the slots for insertion and removal of cross-arms therefrom (Figures 3 and 5).

As to claim 14, Wilson discloses a support bracket **10,11** having a reinforcing rib **21** adjacent to a third slot (Figure 1).

As to claim 15, Wilson discloses a method for securing wire fence elements **42** to fence posts **12** having T-shaped cross-sections with a leg **15** and two cross-arms **13,14**, the method comprising the following steps:

providing a first support bracket **10** having a first slot **22** adapted and constructed to receive a cross-arm of a fence post, a second slot **23** adapted and constructed to receive a cross-arm of the fence post, and a third slot (between bracket arms **18,19**) adapted and constructed to receive a leg of the fence post;

providing a second support bracket **11** having a first slot **22** adapted and constructed to receive a cross-arm of a fence post, a second slot **23** adapted and constructed to receive a cross-arm of the fence post, and a third slot (between bracket arms **18,19**) adapted and constructed to receive a leg of the fence post;

mounting the first bracket to a post in a first position in which the leg of the post is received in the third slot of the bracket; and

mounting the second bracket to a post in a second position in which the leg of the post extends opposite the third slot of the bracket (Figure 1).

As to claim 16, Wilson discloses a method comprising the following steps:

providing respective first tabs **26** connected to first slots **22** of brackets **10,11**;

providing respective second tabs **27** connected to second slots **23** of the brackets; and

using the tabs for leverage to open the slots for insertion and removal of the fence post cross-arms therefrom (Figures 3 and 5).

As to claim 20, Wilson discloses a method wherein steps of providing a first and second bracket **10,11** comprise providing a reinforcing rib **21** adjacent to a third slot (Figure 1).

4. Claims 1-5, 8-12 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansen (USPN 3,801,731).

As to claim 1, Hansen discloses a support bracket **10** for securing wire fence elements **12** to posts **14** having T-shaped cross-sections with a leg and two cross-arms, the bracket having the following:

a first slot **38** adapted and constructed to receive a cross-arm of a fence post;

a second slot **42** adapted and constructed to receive a cross-arm of the fence post; and

a third slot (between bracket arms **36,40**) adapted and constructed to receive a leg of the fence post;

whereby the bracket can be mounted to the post in a first position in which the leg is received in the third slot, and a second position in which the leg extends opposite the third slot (Figures 1 and 2, column 4 lines 11-14).

As to claim 2, Hansen discloses a support bracket **10** having the following:

a first tab **38** connected to a first slot; and

a second tab **42** connected to a second slot;

whereby the first and second tabs are adapted and constructed to facilitate opening of the slots for insertion and removal of cross-arms therefrom (Figure 2).

As to claim 3, Hansen discloses a support bracket **10** fabricated from an electrically insulative material (column 2 lines 33-40).

As to claim 4, Hansen discloses a support bracket **10** fabricated from a relatively flexible electrically insulative material (column 2 lines 33-40).

As to claim 5, Hansen discloses a support bracket **10** fabricated from a thermoplastic material (column 2 lines 33-40).

As to claim 8, Hansen discloses a support bracket **10** for securing wire fence elements **12** to posts **14** having T-shaped cross-sections with a leg and two cross-arms, the bracket having the following:

a first slot **38** adapted and constructed to receive a cross-arm of a fence post;

a second slot **42** adapted and constructed to receive a cross-arm of the fence post, the second slot being generally aligned with the first slot; and

a third slot (between bracket arms **36,40**) adapted and constructed to receive a leg of the fence post, the third slot being generally perpendicular to the first and second slots;

whereby the bracket can be mounted to the post in a first position in which the leg is received in the third slot, and a second position in which the leg extends opposite the third slot (Figure 1).

As to claim 9, Hansen discloses a support bracket **10** having the following:

a first tab **38** connected to a first slot; and

a second tab **42** connected to a second slot;

whereby the first and second tabs are adapted and constructed to facilitate opening of the slots for insertion and removal of cross-arms therefrom (Figure 2).

As to claim 10, Hansen discloses a support bracket **10** fabricated from an electrically insulative material (column 2 lines 33-40).

As to claim 11, Hansen discloses a support bracket **10** fabricated from a relatively flexible electrically insulative material (column 2 lines 33-40).

As to claim 12, Hansen discloses a support bracket **10** fabricated from a thermoplastic material (column 2 lines 33-40).

As to claim 15, Wilson discloses a method for securing wire fence elements **12** to fence posts **14** having T-shaped cross-sections with a leg and two cross-arms, the method comprising the following steps:

providing a first support bracket **10** having a first slot **38** adapted and constructed to receive a cross-arm of a fence post, a second slot **42** adapted and constructed to

receive a cross-arm of the fence post, and a third slot (between bracket arms **36,40**) adapted and constructed to receive a leg of the fence post;

providing a second support bracket having a first slot adapted and constructed to receive a cross-arm of a fence post, a second slot adapted and constructed to receive a cross-arm of the fence post, and a third slot adapted and constructed to receive a leg of the fence post (column 4 lines 11-14);

mounting the first bracket to a post in a first position in which the leg of the post is received in the third slot of the bracket; and

mounting the second bracket to a post in a second position in which the leg of the post extends opposite the third slot of the bracket (Figure 1).

As to claim 16, Hansen discloses a method comprising the following steps:

providing respective first tabs **36** connected to first slots **38** of brackets;

providing respective second tabs **40** connected to second slots **42** of the brackets; and

using the tabs for leverage to open the slots for insertion and removal of the fence post cross-arms therefrom (Figure 2).

As to claim 17, Hansen discloses a method wherein steps of providing a first and second bracket **10** comprise fabricating the brackets from a relatively flexible electrically insulative material (column 2 lines 33-40).

As to claim 18, Hansen discloses a method wherein steps of providing a first and second bracket **10** comprise fabricating the brackets from thermoplastic material (column 2 lines 33-40).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen in view of Oltmanns (USPN 3,684,247).

As to claim 6, Hansen discloses a support bracket **10** fabricated from polyethylene instead of polypropylene (column 2 33-40).

Oltmanns teaches a support bracket fabricated from polypropylene, polyethylene, or other suitable dielectric material which is flexible over a relatively wide temperature range to permit utilization of the device in all types of climates (column 2 lines 37-55).

Inasmuch as the references disclose polyethylene and polypropylene as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

As to claim 13, Hansen discloses a support bracket **10** fabricated from polyethylene instead of polypropylene (column 2 33-40).

Oltmanns teaches a support bracket fabricated from polypropylene, polyethylene, or other suitable dielectric material which is flexible over a relatively wide temperature range to permit utilization of the device in all types of climates (column 2 lines 37-55).

Inasmuch as the references disclose polyethylene and polypropylene as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

As to claim 19, Hansen discloses a method wherein steps of providing a first and second bracket **10** comprise fabricating the brackets from polyethylene instead of polypropylene (column 2 33-40).

Oltmanns teaches a bracket fabricated from polypropylene, polyethylene, or other suitable dielectric material which is flexible over a relatively wide temperature range to permit utilization of the device in all types of climates (column 2 lines 37-55).

Inasmuch as the references disclose polyethylene and polypropylene as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

7. Claims 7, 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen in view of Binns et al. (USPN 2,756,958).

As to claim 7, Hansen fails to disclose a support bracket having a reinforcing rib adjacent to a third slot.

Binns et al. teaches a support bracket having reinforcing ribs **38** adjacent to a third slot **30**; the ribs increasing the rigidity of hook portions of the bracket's arms (Figures 3 and 6, column 2 lines 36-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a support bracket as disclosed by Hansen to have reinforcing ribs adjacent to a third slot as taught by Binns et al. to ribs increase the rigidity of hook portions of the bracket's arms.

As to claim 14, Hansen fails to disclose a support bracket having a reinforcing rib adjacent to a third slot.

Binns et al. teaches a support bracket having reinforcing ribs **38** adjacent to a third slot **30**; the ribs increasing the rigidity of hook portions of the bracket's arms (Figures 3 and 6, column 2 lines 36-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a support bracket as disclosed by Hansen to have reinforcing ribs adjacent to a third slot as taught by Binns et al. to increase the rigidity of hook portions of the bracket's arms.

As to claim 20, Hansen fails to disclose a method wherein steps of providing a first and second bracket comprise providing a reinforcing rib adjacent to a third slot.

Binns et al. teaches a bracket having reinforcing ribs **38** adjacent to a third slot **30**; the ribs increasing the rigidity of hook portions of the bracket's arms (Figures 3 and 6, column 2 lines 36-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a method as disclosed by Hansen to provide a bracket with reinforcing ribs adjacent to a third slot as taught by Binns et al. to increase the rigidity of hook portions of the bracket's arms.

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents are cited to be added to the applicant's list for they further show the state of the art with respect to fence brackets:

Lotz (USPN 1,630,441), Berg, Jr. et al. (USPN 3,820,758), Wilson (USPN 4,077,611) and Langlie et al. (US Des. 248,750) are cited for pertaining to brackets having a first, second and third slot.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703)308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1114.

MPF
March 20, 2003


Lynne H. Browne
Supervisory Patent Examiner
Group Art Unit 3679